

CLERK'S OFFICE U.S. DISTRICT COURT
AT ABINGDON, VA
FILED

JAN 20 2022

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Western District of Virginia

JULIA C. DUDLEY, CLERK

BY: *E. Surber*

DEPUTY CLERK

United States of America

v.

Jonathan Avery Shumate

Case No. 1:22mj10

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of Nov. 1, 2021 to Dec. 31, 2021 in the county of Grayson in the
Western District of Virginia, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. § 2251(a) & (e)

Employing, using, persuading, inducing, enticing, or coercing, or attempting to employ, use, persuade, induce, entice, or coerce, any minor to engage in any sexual explicit conduct for the purpose of producing any visual depiction of such conduct or for the purpose of transmitting a live visual depiction of such conduct, knowing or having reason to know that such visual depiction will be transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce.

This criminal complaint is based on these facts:

See Attachment A

☒ Continued on the attached sheet.*Chad Potter*

Complainant's signature

Chad Potter Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date:

telephonically
1/20/22

City and state:

Abingdon, VA*Pamela Meade Sargent*

Judge's signature

U.S. Magistrate Judge Pamela Meade Sargent

Printed name and title

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA**

IN THE MATTER OF THE)
ARREST OF:) **No.**
)
Jonathan Avery Shumate)

**AFFIDAVIT IN SUPPORT OF AN APPLICATION
FOR A CRIMINAL COMPLAINT**

I, Chad Potter, being first duly sworn, do hereby depose and state as follows:

INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigations (FBI). I have been employed as an FBI Special Agent since October 27, 2019. I received my initial training and instruction at the FBI Academy located in Quantico, Virginia, where I received training regarding violations of the United States criminal statutes. After my initial training, I was assigned to the Richmond Division, Bristol Resident Agency of the FBI. I currently work out of the Bristol, Virginia FBI Field Office. As part of my job duties, I have investigated a variety of criminal cases, including cases involving the possession of child pornography and sexual exploitation of children.

2. As a Special Agent, I am "an investigative or law enforcement officer" of the United States within the meaning of Title 18, United States Code, Section 3052, which specifically authorizes FBI Special Agents and officials of the FBI to

make arrests, carry firearms, and serve warrants. Title 18, United States Code, Section 3107, empowers FBI Special Agents and officials to make seizures under warrant for violation of federal statutes.

3. I am investigating the activities of JONATHAN AVERY SHUMATE (SHUMATE). I submit this application and affidavit in support of an arrest warrant for SHUMATE, as there is probable cause to be believed that he has violated 18 U.S.C. §§ 2251(a) & (e) by employing, using, enticing, or coercing, or attempting to employ, use, entice, or coerce any minor to engage in any sexual explicit conduct for the purpose of producing any visual depiction of such conduct or for the purpose of transmitting a live visual depiction of such conduct, knowing or having reason to know that such visual depiction will be transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce.

4. The statements in this affidavit are based on information obtained from my observations and investigation, as well as information that I learned from discussions with other law enforcement officers. Because this affidavit is being submitted for the limited purpose of securing an arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts I believe are necessary to establish probable cause for the requested arrest warrant.

JURISDICTION

5. This Court has jurisdiction to issue the requested warrant because it is a “court of competent jurisdiction,” as defined by 18 U.S.C. § 2711. Specifically, the Court is a “district court of the United States” that “has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i).

DEFINITIONS

6. The following definitions apply to this affidavit:

a. The term “minor,” as defined in 18 U.S.C. § 2256(1), refers to a person under the age of eighteen years.

b. The term “sexually explicit conduct,” as defined in 18 U.S.C. § 2256(2)(A), means actual or simulated (i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; (ii) bestiality; (iii) masturbation; (iv) sadistic or masochistic abuse; or (v) lascivious exhibition of the anus, genitals, or pubic area of any person.

c. The term “visual depiction,” as defined in 18 U.S.C. § 2256(5), includes undeveloped film and videotape, data stored on computer disc or other electronic means which is capable of conversion into a visual image, and data which is capable of conversion into a visual image that has been transmitted by any means, whether or not stored in a permanent format.

d. The term “Snapchat,” as used herein, is a free instant messaging

application that can be accessed from a cellular telephone, iPad, computer, tablet, or laptop computer. Snapchat uses a smartphone's data plan or Wi-fi to transmit and receive messages, photographs, videos, sketches, mobile web pages, and other content after a user registers a username. Snapchat is available on iOS, Android, and Amazon for Kindle Fire.

e. The term "Grinder," as used herein, is a location-based social networking and online dating application that can be accessed from a cellular telephone, iPad, computer, tablet, or laptop computer. Grinder uses a smartphone's data plan or Wi-fi to transmit and receive messages, photographs, videos, and other content after a user registers a username. Grinder is available on iOS and Android devices.

PROBABLE CAUSE

7. Based on my investigation, Jonathan Avery Shumate ("SHUMATE") resides at 108 Church Street, Warrensville, North Carolina, 28693. In mid-November 2021, SHUMATE contacted two juvenile males, ages 16 and 17, who were residing in Grayson County, Virginia while attending Oak Hill Academy. Oak Hill Academy is a co-ed, college preparatory boarding school for 8th to 12th graders located in the Western District of Virginia.

8. Beginning in mid-November and over the course of three to four weeks, SHUMATE communicated with the two juvenile males via the social networking

and online dating application Grinder, then through text messages, telephone calls, and the mobile messaging application Snapchat.

9. Early on in the communications, SHUMATE gave the juvenile males his cellular telephone number via Grinder.

10. A subpoena return from Verizon's custodian of records indicated that the subscriber information for the telephone number provided to the juvenile males does in fact belong to SHUMATE, residing at 108 Church Street in Warrensville, North Carolina.

11. The Snapchat username used by SHUMATE to communicate with the two juvenile males was jon_shumate. A subpoena return from Snapchat's custodian of records indicated that account username jon_shumate does in fact belong to subscriber SHUMATE, residing at 108 Church Street in Warrensville, North Carolina.

12. During an interview conducted by the Child Advocacy Center on December 9, 2021, the 16-year-old juvenile said that in the days before Thanksgiving break, SHUMATE traveled from Warrensville, North Carolina to the campus of Oak Hill Academy in Mouth of Wilson, Virginia, to provide the two juvenile males with vaping supplies. During this exchange, the juvenile males paid money to SHUMATE for the vaping supplies.

13. During an interview conducted by the Child Advocacy Center on

December 13, 2021, the 17-year-old juvenile male said that on the same day SHUMATE traveled from North Carolina to Oak Hill Academy to deliver the vaping supplies in mid-November 2021, SHUMATE asked the 17-year-old juvenile male for sexually explicit photographs. The 17-year-old juvenile male said that SHUMATE asked him for specific sexually explicit photographs of his genitalia and buttocks.

14. During the interview, the 17-year-old juvenile male said that before leaving for Thanksgiving break, the 17-year-old juvenile male did in fact send SHUMATE sexually explicit nude photographs of his genitalia via the mobile messaging application Snapchat. The 17-year-old juvenile male also admitted taking a live video of himself in the shower exposing his naked buttocks for SHUMATE.

15. The 17-year-old juvenile male said at one point during their communications from mid-November 2021 to early December 2021, SHUMATE sent a sexual photograph to him via Snapchat. The 17-year-old juvenile male said he believed the photograph may have been taken from the internet due to the quality of the photograph.

16. On December 3, 2021, Oak Hill staff recovered a bag in a drainage ditch on campus after seeing an adult male in a green Jeep in the area. The bag contained vapes, vaping supplies, and a receipt for the purchase of the items found in the bag.

The receipt contains the last four digits of a Mastercard/Debit card used for the purchase of the items. I know from my investigation that SHUMATE drives a green Jeep. It was discovered that the adult male left the vaping supplies in the drainage ditch for the two juvenile male victims. School officials contacted the Grayson County Sheriff's Office ("GCSO"). Parents of both juvenile males gave GCSO consent to seize and examine the juvenile males' cellular telephones.

17. I have reviewed the cellular devices of the juvenile males. In messages sent between mid-November 2021 and early December 2021, SHUMATE told the juvenile males they were "sexy" and offered to perform oral sex on the juvenile males.

18. In the messages I reviewed, SHUMATE also told the 16-year-old juvenile male that he hoped the juveniles would be "freeballing," in other words not wearing underwear, while picking up the vape supplies, so SHUMATE could see his "package bouncing."

19. In the messages I reviewed, there also was a photograph of one of the juvenile male's genitalia and sexual text messages between SHUMATE and the juvenile males, in addition to conversations regarding the juvenile males receiving vaping supplies from SHUMATE in exchange for sexual photographs and acts such as oral sex.

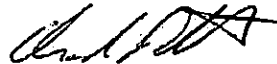
20. Additionally, during the interview conducted by the Child Advocacy

Center, the 16-year-old juvenile male said that while he was at his home residence in Boone, North Carolina over Thanksgiving break, SHUMATE communicated with the juvenile male, traveled to his home while his parents were away, and placed vaping supplies in his mailbox.

CONCLUSION

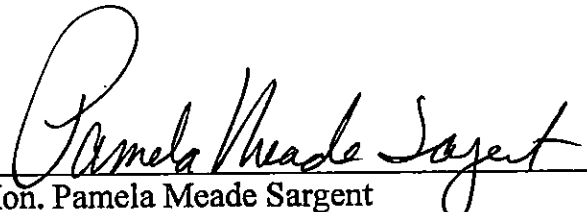
21. Based upon the contents of this affidavit, I respectfully submit there is probable cause to believe that JONATHAN AVERY SHUMATE has violated 18 U.S.C. §§ 2251(a) & (e).

22. Therefore, I respectfully request that the Court issue a warrant authorizing the arrest of JONATHAN AVERY SHUMATE of Warrensville, North Carolina, for the above violations.



Chad Potter, Special Agent
Federal Bureau of Investigation
United States Department of Justice

Sworn to ~~and subscribed~~ ^{telephonically} before me this 20th day of January, 2022.



Hon. Pamela Meade Sargent
UNITED STATES MAGISTRATE JUDGE

Reviewed by: Lena Busscher, AUSA